

National Aeronautics and
Space Administration
Office of the Administrator
Washington, DC 20546-0001



June 30, 2003

TO: Occupational Health Medical COTRs
Clinic Medical Directors
Chief Nurses

FROM: AM/Chief Health and Medical Officer

SUBJECT: NASA Application of the Health Insurance Portability and Accountability Act
(HIPAA)

Recently, compliance with HIPAA became mandatory for applicable health care organizations. We requested that the NASA General Counsel thoroughly review and provide their opinion as to HIPAA applicability to the NASA health care delivery system. A number of you have called for guidance in recent weeks and the attachment to this letter is intended to provide that guidance and clarification.

NASA, as an Agency, is not considered a covered entity and is not required to be HIPAA compliant at this time. However, when the Johnson Space Center's Flight Medicine Clinic initiates the utilization of electronic media to transmit health information in connection with covered transactions, that clinic must become HIPAA compliant.

NASA's occupational health clinic services are contractor-operated by a variety of entities. Clinic contractors must determine if their organization's business transactions require them to be HIPAA compliant. Contractors deemed to meet the test for requiring HIPAA compliance are responsible for achieving and maintaining that compliance. We will work with NASA Centers and Procurement to craft the appropriate language to insert in all future clinic services contracts to make HIPAA compliance mandatory if applicable.

Concern was also raised about whether NASA needed a business associate agreement to review protected health information on our occupational health audits of those entities required to be HIPAA compliant. Again, General Counsel does not feel that NASA fits the definition of a "business associate" since we do not conduct a function or activity of a covered entity on the covered entity's behalf. In fact, it is the opposite since our clinic contractors conduct functions on our behalf. We can therefore codify our need for access to protected

health information and subsequently assure our contractors that by providing such information to us they do not violate HIPAA regulations.

We will work with the Department of Health and Human Services' Office of Civil Rights and continue to coordinate with General Counsel and Procurement to determine NASA's obligation under HIPAA as we change our methods of health care delivery and progress towards uniformly employing electronic health records. Should you have further questions, please feel to contact Ms. Catherine Angotti at 202-358-2390.

A handwritten signature in black ink, appearing to read "R. S. Williams".

Richard S. Williams, MD, FACS

Enclosure